

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 541 be amended to read as follows:

- 1 Page 5, between lines 35 and 36, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-2.5-7-10 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) Each
- 4 refiner or terminal operator and each qualified distributor that has
- 5 received a prepayment of the state gross retail tax under this chapter
- 6 shall remit the tax received to the department semimonthly, **through**
- 7 **the department's online tax filing system**, according to the following
- 8 schedule:
- 9 (1) On or before the tenth day of each month for prepayments
- 10 received after the fifteenth day and before the end of the
- 11 preceding month.
- 12 (2) On or before the twenty-fifth day of each month for
- 13 prepayments received after the end of the preceding month and
- 14 before the sixteenth day of the month in which the prepayments
- 15 are made.
- 16 (b) Before the end of each month, each refiner or terminal operator
- 17 and each qualified distributor shall file a report covering the prepaid
- 18 taxes received and the gallons of gasoline sold or shipped during the
- 19 preceding month. The report must include the following:
- 20 (1) The number of gallons of gasoline sold or shipped during the
- 21 preceding month, identifying each purchaser or receiver as
- 22 required by the department.
- 23 (2) The amount of tax prepaid by each purchaser or receiver.
- 24 (3) Any other information reasonably required by the department.
- 25 SECTION 5. IC 6-2.5-7-14, AS AMENDED BY P.L.176-2006,
- 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 APRIL 1, 2009 (RETROACTIVE)]: Sec. 14. (a) Before **March 10**,
- 28 June 10, **September 10**, and December 10 of each year, the department
- 29 shall determine and provide to:
- 30 (1) each refiner and terminal operator and each qualified
- 31 distributor known to the department to be required to collect

prepayments of the state gross retail tax under this chapter; and
 (2) any other person that makes a request;
 a notice of the prepayment rate to be used during the following ~~six (6)~~
~~three (3)~~ month period. ~~The department shall also have the prepayment~~
~~rate published in the June and December issues of the Indiana Register.~~
The department, after approval by the office of management and
budget, may determine a new prepayment rate if the department
finds that the statewide average retail price per gallon of gasoline,
excluding the Indiana and federal gasoline taxes and the Indiana
gross retail tax, has changed by at least twenty-five percent (25%)
since the most recent determination.

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The STEP ONE amount.

(B) The Indiana gross retail tax rate.

(C) ~~Ninety Eighty percent (90%).~~ **(80%).**

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001)."

Page 12, delete lines 21 through 31, begin a new line block indented and insert:

"(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a trust;

(4) a limited liability company; or

(5) a limited liability partnership."

Page 13, line 9, delete "attributed to Indiana" and insert **"considered Indiana source income"**.

Page 13, line 10, delete "entity" and insert **"person, corporation, or pass through entity"**.

Page 25, line 27, delete "a" and insert **"the"**.

Page 25, line 27, delete "." and insert **"of the contribution."**

1 Page 60, line 4, after "quarry" insert "**or mine**".

2 Page 60, line 10, delete "." and insert "**or mine.**".

3 Page 73, between lines 16 and 17, begin a new paragraph and insert:

4 "SECTION 55. IC 6-8.1-7-1, AS AMENDED BY P.L.131-2008,
5 SECTION 29, AND AS AMENDED BY P.L.146-2008, SECTION
6 359, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection does not
8 apply to the disclosure of information concerning a conviction on a tax
9 evasion charge. Unless in accordance with a judicial order or as
10 otherwise provided in this chapter, the department, its employees,
11 former employees, counsel, agents, or any other person may not divulge
12 the amount of tax paid by any taxpayer, terms of a settlement
13 agreement executed between a taxpayer and the department,
14 investigation records, investigation reports, or any other information
15 disclosed by the reports filed under the provisions of the law relating
16 to any of the listed taxes, including required information derived from
17 a federal return, except to:

18 (1) members and employees of the department;

19 (2) the governor;

20 (3) the attorney general or any other legal representative of the
21 state in any action in respect to the amount of tax due under the
22 provisions of the law relating to any of the listed taxes; or

23 (4) any authorized officers of the United States;

24 when it is agreed that the information is to be confidential and to be
25 used solely for official purposes.

26 (b) The information described in subsection (a) may be revealed
27 upon the receipt of a certified request of any designated officer of the
28 state tax department of any other state, district, territory, or possession
29 of the United States when:

30 (1) the state, district, territory, or possession permits the exchange
31 of like information with the taxing officials of the state; and

32 (2) it is agreed that the information is to be confidential and to be
33 used solely for tax collection purposes.

34 (c) The information described in subsection (a) relating to a person
35 on public welfare or a person who has made application for public
36 welfare may be revealed to the director of the division of family
37 resources, and to any director of a ~~county~~ local office of ~~family and~~
38 ~~children~~ the division of family resources located in Indiana, upon
39 receipt of a written request from either director for the information. The
40 information shall be treated as confidential by the directors. In addition,
41 the information described in subsection (a) relating to a person who has
42 been designated as an absent parent by the state Title IV-D agency
43 shall be made available to the state Title IV-D agency upon request.
44 The information shall be subject to the information safeguarding
45 provisions of the state and federal Title IV-D programs.

46 (d) The name, address, Social Security number, and place of
47 employment relating to any individual who is delinquent in paying

educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

(1) the state agency shows an official need for the information; and

(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana, when it is agreed that the information is to be confidential and to be used solely for official purposes.

~~(g)~~ (h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

~~(h)~~ (i) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

~~(i)~~ (j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

~~(j)~~ (k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

~~(k)~~ (l) All information relating to the delinquency or evasion of

1 commercial vehicle excise taxes payable under the International
 2 Registration Plan may be disclosed to another state, if the information
 3 is disclosed for the purpose of the enforcement and collection of the
 4 taxes imposed by IC 6-6-5.5.

5 *(m) All information relating to the delinquency or evasion of the*
 6 *excise taxes imposed on recreational vehicles and truck campers that*
 7 *are payable to the bureau of motor vehicles in Indiana may be*
 8 *disclosed to the bureau and may be disclosed to another state if the*
 9 *information is disclosed for the purpose of the enforcement and*
 10 *collection of the taxes imposed by IC 6-6-5.1.*

11 ~~(m)~~ (n) This section does not apply to:

- 12 (1) the beer excise tax, **including brand and packaged type**
 13 (IC 7.1-4-2);
- 14 (2) the liquor excise tax (IC 7.1-4-3);
- 15 (3) the wine excise tax (IC 7.1-4-4);
- 16 (4) the hard cider excise tax (IC 7.1-4-4.5);
- 17 (5) the malt excise tax (IC 7.1-4-5);
- 18 (6) the motor vehicle excise tax (IC 6-6-5);
- 19 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- 20 (8) the fees under IC 13-23.

21 ~~(m)~~ (o) The name and business address of retail merchants within
 22 each county that sell tobacco products may be released to the division
 23 of mental health and addiction and the alcohol and tobacco commission
 24 solely for the purpose of the list prepared under IC 6-2.5-6-14.2."

25 Page 78, between lines 33 and 34, begin a new paragraph and insert:
 26 "SECTION 65. [EFFECTIVE JANUARY 1, 2009
 27 (RETROACTIVE)] **(a) A prepayment rate determined by the**
 28 **department under IC 6-2.5-7-14, as amended by this act, that took**
 29 **effect after December 31, 2008, is legalized and validated.**

30 **(b) This SECTION expires December 31, 2009."**

31 Renumber all SECTIONS consecutively.

(Reference is to SB 541 as printed January 30, 2009.)

Senator HERSHMAN